

EX-101
FILED

14 MAY 15 AM 9:28

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.
Present in Person

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

CAL-WESTERN OF WASHINGTON,
INC.,

Defendant.

NO. 14-2-13590-4 SEA

[PROPOSED] ORDER GRANTING
THE STATE OF WASHINGTON'S
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION

This matter, having come before the Court on the State of Washington's Motion for Temporary Restraining Order and Preliminary Injunction, and the Court having heard the arguments, if any, of the parties, and considered the following material:

1. The State of Washington's Motion for Temporary Restraining Order and Preliminary Injunction;

2. The Declaration of Richard Zwicker and the exhibits attached thereto;

3. The Declaration of Benjamin Roesch and the exhibit attached thereto;

4. _____;

5. _____;

6. _____;

7. _____;

8. _____;

[PROPOSED] ORDER GRANTING
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION

1 9. _____; and

2 10. _____.

3 It is therefore ORDERED that the State of Washington's Motion for Temporary
4 Restraining Order is GRANTED. This Temporary Restraining Order is issued on May 15,
5 2014 at 9:30 Am

6 The Court FINDS that absent this Order, irreparable injury will be incurred by
7 Washington homeowners whose properties will be sold at trustee's sale by Cal-Western
8 pursuant to Notices of Trustee's Sale that provided the homeowners with an incorrect
9 telephone number for Cal-Western.

10 The Court further FINDS that counsel for the State of Washington provided written
11 notice of the State's intention to seek this order to Cal-Western on the afternoon of May 14,
12 2014. No further notice is required because (a) homeowners will be irreparably harmed if
13 Cal-Western is not restrained from conducting trustee's sales, (b) Cal-Western's violations of
14 the Deed of Trust Act and Consumer Protection Act are clearly shown by the Declaration of
15 Richard Zwicker and the attached exhibits, and (c) Cal-Western has been aware of the factual
16 basis for the State's Motion for Temporary Restraining Order since March 2014.

17 The Court further FINDS that Cal-Western has violated and is currently in violation
18 of the Deed of Trust Act and Consumer Protection Act. Violations include the following:

- 19 • Cal-Western has provided Washington homeowners facing foreclosure with an
20 incorrect telephone number to contact in in Notices of Trustee's Sale and Notices of
21 Foreclosure, in violation of RCW 61.24.040(1)(f) and (g).
22 • Cal-Western has provided Washington homeowners facing foreclosure with an
23 incorrect telephone number to contact in in Notices of Trustee's Sale and Notices of
24 Foreclosure, in violation of RCW 19.86.020.

1 The Court CONCLUDES that Washington consumers have a clear legal and
2 equitable right to be free of unfair or deceptive acts or practices, RCW 19.86.020, including
3 without limitation acts or practices in violation of the Deed of Trust Act, RCW 19.86.
4 Lenders and trustees are required to comply strictly with the Deed of Trust Act. *See Albice v.*
5 *Premier Mortg. Servs., Inc.*, 174 Wn.2d 560, 567, 276 P.3d 1277 (2012). As noted above,
6 the State of Washington had a well-grounded fear of immediate invasion of consumers' legal
7 rights because Cal-Western failed to comply strictly with RCW 61.24.040(1)(f) and (g), and
8 because that failure deceptively and unfairly deprives Washington homeowners facing
9 foreclosure of the opportunity to communicate orally with the foreclosure trustee in attempts
10 to avert foreclosure, such as updated quotes to cure their default or pay off the mortgage, or
11 to ask Cal-Western to exercise its discretion, pursuant to its statutory duty of good faith, to
12 continue the trustee's sale to allow the homeowner to explore foreclosure alternatives. This
13 Court has the authority to restrain Cal-Western from engaging in unfair or deceptive acts
14 pursuant to RCW 19.86.080.

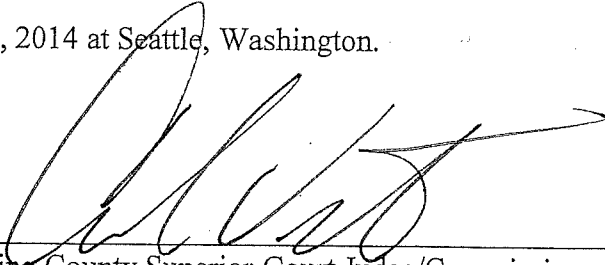
15 No security is required for this Temporary Restraining Order because it is issued at
16 the request of the State of Washington. CR.65(c).

17 It is therefore ORDERED that Cal-Western, and all entities or persons acting in
18 concert with them, including but not limited to owners, directors, officers, employees,
19 volunteers, independent contractors, and any other agent, are restrained from conducting any
20 trustee's sale pursuant to a Notice of Trustee's Sale that stated Cal-Western's telephone
21 number incorrectly as 1-800-546-1351.

22 It is further ORDERED that a hearing to show cause why a preliminary injunction
23 should not issue against Cal-Western shall be held on May 29, 2014, at 8:30 a.m. in the
24 courtroom of the Honorable Judge Julie Spector, King County Superior Court Judge.
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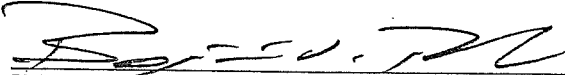
1 This Temporary Restraining Order shall expire 14 days after its issuance, unless it is
2 extended for good cause shown.

3 DATED this 15 day of May, 2014 at Seattle, Washington.

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6
7 
King County Superior Court Judge/Commissioner

8 Presented by:

9 ROBERT W. FERGUSON
10 Attorney General

11 
12 TODD BOWERS, WSBA #25274
13 BENJAMIN J. ROESCH, WSBA #39960
14 Assistant Attorneys General
Attorneys for Plaintiff, State of Washington